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DEPARTMENT OF COMMERCE

International Trade Administration

(A-602-807)

Certain Uncoated Paper from Australia: Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) preliminarily determines that certain uncoated paper from Australia is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Eve Wang or George McMahon, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6231 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on February 18, 2015.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and hereby adopted by this notice.² The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

¹ See *Certain Uncoated Paper From Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 8608 (February 18, 2015) (*Initiation Notice*).

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Australia" (Preliminary Decision Memorandum), dated concurrently with this notice.

The product covered by this investigation is uncoated paper from Australia. For a full description of the scope of this investigation, see the “Scope of the Investigation,” in Appendix I of this notice.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For discussion of those comments, see the Preliminary Decision Memorandum.³

Postponement of Deadline for Preliminary Determination

On May 15, 2015, the Petitioners⁴ made a timely request for a 50-day postponement of the preliminary determination in this investigation pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).⁵ On June 1, 2015, we postponed the preliminary determination by 50 days, to August 19, 2015.⁶

³ See also Memorandum from Erin Begnal, Director, Office III, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled “Scope Comments Decision Memorandum for the Preliminary Determinations,” dated August 3, 2015.

⁴ The Petitioners in this proceeding are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (collectively, the Petitioners).

⁵ See the Petitioners’ letter to the Department dated May 15, 2015.

⁶ See *Certain Uncoated Paper from Australia, Brazil, the People’s Republic of China, Indonesia, and Portugal: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 31017 (June 1, 2015).

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. There is one respondent in this investigation, Paper Australia Pty. Ltd. (Australian Paper). Constructed export price and export price for this company are calculated in accordance with section 772 of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Australian Paper is the only respondent for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the “all others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Australian Paper, as referenced in the “Preliminary Determination” section below.

Negative Preliminary Determinations of Critical Circumstances

On July 15, 2015, the Petitioners filed timely a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c), alleging that critical circumstances exist with respect to imports of the merchandise under consideration from

Australia.⁷ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We conducted analyses of critical circumstances for Australian Paper in accordance with section 733(e) of the Act and 19 CFR 351.206, and preliminarily determined that: (1) importers of uncoated paper from Australian Paper knew or should have known that the exporter was selling the merchandise under consideration at LTFV and that there was likely to be material injury in accordance with section 733(e)(1)(A)(ii) of the Act; and (2) imports of the subject merchandise from these companies have not been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. Further, for the companies subject to the “all others” rate, it is the Department's normal practice to conduct its critical circumstances analysis for these companies based on the experience of investigated companies.⁸ Accordingly, we find that the critical circumstances determination for Australian Paper should also be applied to all others, given that Australian Paper is the only known, identified producer in the petition and the initiation.⁹ For a full description of the methodology and results of our analysis, see the Preliminary Decision Memorandum.

⁷ See the letter from the petitioners entitled, “Certain Uncoated Paper from Australia – Allegation of Critical Circumstances,” dated July 15, 2015.

⁸ See, e.g., *Sodium Metal from France: Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances*, 73 FR 62252, 62254 (October 20, 2008); *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 FR 17413, 17415-416 (March 26, 2012).

⁹ See *Initiation Notice*, 80 FR at 8614; see also Volume II of the Petitions, at II-1 – II-2 at footnote 1, and Exhibit II-3; Volume V of the Petitions, at V-1 through V-2 and Exhibit V-1; Volume VI of the Petitions, at Exhibits VI-1 and VI-2.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/Manufacturer	Weighted-Average Dumping Margin (percent)
Paper Australia Pty. Ltd.	40.65
All Others	40.65

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain uncoated paper from Australia, as described in Appendix I of this notice, for Australian Paper and the companies covered by the all others rate which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. However, because we have preliminarily found that critical circumstances do not exist with regard to Australia, we will not instruct CBP to suspend liquidation of covered entries from those companies entered, or withdrawn from warehouse for consumption up to 90 days prior to the date of publication of this notice in the **Federal Register**.¹⁰

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits¹¹ equal to the dumping margins, as indicated in the chart above, as follows: (1) the rate for the mandatory respondents listed above will be the respondent-specific rate we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer

¹⁰ See section 733(e)(2) of the Act.

¹¹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

of the subject merchandise; and (3) the rate for all other producers or exporters will be the all others rate. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹³

¹² See 19 CFR 351.309.

¹³ See 19 CFR 351.310(c).

Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Australian Paper requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.*, to 135 days after publication of the preliminary determination) pursuant to section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.¹⁴

¹⁴ See letter from Australian Paper entitled, "Certain Uncoated Paper from Australia: Respondents' Comments on the Extension of Final Determination," dated August 11, 2015.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹⁵

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Australia before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

¹⁵ See also 19 CFR 351.210(e).

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 19, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level¹ of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

¹ One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. "Colored paper" as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination and Extension of Provisional Measures
- V. Scope Comments
- VI. Discussion of the Methodology
 - a. Determination of the Comparison Method
 - b. Results of the Differential Pricing Analysis
- VII. Date of Sale
- VIII. Product Comparisons
- IX. Constructed Export Price
- X. Normal Value
 - a. Home Market Viability
 - b. Level of Trade
 - c. Cost of Production (COP) Analysis
 - 1. Calculation of COP
 - 2. Test of Comparison Market Sales Prices
 - 3. Results of the COP Test
 - d. Calculation of NV Based on Comparison Market Prices
- XI. Currency Conversion
- XII. Critical Circumstances